

108TH CONGRESS  
2D SESSION

# S. 2605

To direct the Secretary of the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 24, 2004

Mr. CRAIG (for himself and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To direct the Secretary of the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Snake River Water  
5 Rights Act of 2004”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1           (1) to resolve some of the largest outstanding  
2       issues with respect to the Snake River Basin Adju-  
3       dication in Idaho in such a manner as to provide im-  
4       portant benefits to the United States, the State of  
5       Idaho, the Nez Perce Tribe, the allottees, and citi-  
6       zens of the State;

7           (2) to achieve a fair, equitable, and final settle-  
8       ment of all claims of the Nez Perce Tribe, its mem-  
9       bers, and allottees and the United States on behalf  
10      of the Tribe, its members, and allottees to the water  
11      of the Snake River Basin within Idaho;

12          (3) to authorize, ratify, and confirm the Agree-  
13      ment among the parties submitted to the Snake  
14      River Basin Adjudication Court and provide all par-  
15      ties with the benefits of the Agreement;

16          (4) to direct—

17              (A) the Secretary, acting through the Bu-  
18              reau of Reclamation, the Bureau of Land Man-  
19              agement, the Bureau of Indian Affairs, and  
20              other agencies; and

21              (B) the heads of other Federal agencies  
22              authorized to execute and perform actions nec-  
23              essary to carry out the Agreement;

24      to perform all of their obligations under the Agree-  
25      ment and this Act; and

1           (5) to authorize the actions and appropriations  
2           necessary for the United States to meet the obliga-  
3           tions of the United States under the Agreement and  
4           this Act.

5 **SEC. 3. DEFINITIONS.**

6           In this Act:

7           (1) AGREEMENT.—The term “Agreement”  
8           means the document titled “Mediator’s Term Sheet”  
9           dated April 20, 2004, and submitted on that date to  
10          the SRBA Court in SRBA Consolidated Subcase  
11          03–10022 and SRBA Consolidated Subcase 67–  
12          13701, with all appendices to the document.

13          (2) ALLOTTEE.—The term “allottee” means a  
14          person that holds a beneficial real property interest  
15          in an Indian allotment that is—

16                 (A) located within the Nez Perce Reserva-  
17                 tion; and

18                 (B) held in trust by the United States.

19          (3) CONSUMPTIVE USE RESERVED WATER  
20          RIGHT.—The term “consumptive use reserved water  
21          right” means the Federal reserved water right of  
22          50,000 acre-feet per year, as described in the Agree-  
23          ment, to be decreed to the Tribe and the allottees,  
24          with a priority date of 1855.

1           (4) PARTIES.—The term “parties” means the  
2           United States, the State, the Tribe, and any other  
3           entity or person that submitted, or joined in the sub-  
4           mission, of the Agreement to the SRBA Court on  
5           April 20, 2004.

6           (5) SECRETARY.—The term “Secretary” means  
7           the Secretary of the Interior.

8           (6) SNAKE RIVER BASIN.—The term “Snake  
9           River Basin” means the geographic area in the  
10          State described in paragraph 3 of the Commence-  
11          ment Order issued by the SRBA Court on November  
12          19, 1987.

13          (7) SPRINGS OR FOUNTAINS WATER RIGHT.—  
14          The term “springs or fountains water right” means  
15          the Tribe’s treaty right of access to and use of water  
16          from springs or fountains on Federal public land  
17          within the area ceded by the Tribe in the Treaty of  
18          June 9, 1863 (14 Stat. 647), as recognized under  
19          the Agreement.

20          (8) SRBA.—The term “SRBA” means the  
21          Snake River Basin Adjudication litigation before the  
22          SRBA Court styled as In re Snake River Basin Ad-  
23          judication, Case No. 39576.

24          (9) SRBA COURT.—The term “SRBA Court”  
25          means the District Court of the Fifth Judicial Dis-

1        trict of the State of Idaho, In and For the County  
 2        of Twin Falls in re Snake River Basin Adjudication.

3            (10) STATE.—The term “State” means the  
 4        State of Idaho.

5            (11) TRIBE.—The term “Tribe” means the Nez  
 6        Perce Tribe.

7        **SEC. 4. APPROVAL, RATIFICATION, AND CONFIRMATION OF**  
 8            **AGREEMENT.**

9            (a) IN GENERAL.—Except to the extent that the  
 10       Agreement conflicts with the express provisions of this  
 11       Act, the Agreement is approved, ratified, and confirmed.

12          (b) EXECUTION AND PERFORMANCE.—The Secretary  
 13       and the other heads of Federal agencies with obligations  
 14       under the Agreement shall execute and perform all ac-  
 15       tions, consistent with this Act, that are necessary to carry  
 16       out the Agreement.

17        **SEC. 5. BUREAU OF RECLAMATION WATER USE.**

18          (a) IN GENERAL.—As part of the overall implementa-  
 19       tion of the Agreement, the Secretary shall take such ac-  
 20       tions consistent with the Agreement, this Act, and water  
 21       law of the State as are necessary to carry out the Snake  
 22       River Flow Component of the Agreement.

23          (b) MITIGATION FOR CHANGE OF USE OF WATER.—

24            (1) AUTHORIZATION OF APPROPRIATIONS.—

25        There is authorized to be appropriated to the Sec-

retary \$2,000,000 for a 1-time payment to local governments to mitigate for the change of use of water acquired by the Bureau of Reclamation under section III.C.6 of the Agreement.

(2) DISTRIBUTION OF FUNDS.—Funds made available under paragraph (1) shall be distributed by the Secretary to local governments in accordance with a plan provided to the Secretary by the State.

(3) PAYMENTS.—Payments by the Secretary shall be made on a pro rata basis as water rights are acquired by the Bureau of Reclamation.

**SEC. 6. BUREAU OF LAND MANAGEMENT LAND TRANSFER.**

(a) TRANSFER.—

(1) IN GENERAL.—The Secretary shall transfer land selected by the Tribe under paragraph (2) to the Bureau of Indian Affairs to be held in trust for the Tribe.

(2) LAND SELECTION.—The land transferred shall be selected by the Tribe from a list of parcels of land managed by the Bureau of Land Management that are available for transfer, as depicted on the map entitled “North Idaho BLM Land Eligible for Selection by the Nez Perce Tribe” dated May 2004, on file with the Director of the Bureau of Land Management, not including any parcel des-

1       ignated on the map as being on the Clearwater River  
2       or Lolo Creek.

3           (3) MAXIMUM VALUE.—The land selected by  
4       the Tribe for transfer shall be limited to a maximum  
5       value in total of not more than \$7,000,000, as deter-  
6       mined by an independent appraisal of fair market  
7       value prepared in accordance with the Uniform  
8       Standards of Professional Appraisal Practice and  
9       the Uniform Appraisal Standards for Federal Land  
10      Acquisitions.

11      (b) EXISTING RIGHTS AND USES.—

12           (1) IN GENERAL.—On any land selected by the  
13      Tribe under subsection (a)(2), any use in existence  
14      on the date of transfer under subsection (a) under  
15      a lease or permit with the Bureau of Land Manage-  
16      ment, including grazing, shall remain in effect until  
17      the date of expiration of the lease or permit, unless  
18      the holder of the lease or permit requests an earlier  
19      termination of the lease or permit, in which case the  
20      Secretary shall grant the request.

21           (2) AVAILABILITY OF AMOUNTS.—Amounts  
22      that accrue to the United States under a lease or  
23      permit described in paragraph (1) from sales, bo-  
24      nuses, royalties, and rentals relating to any land  
25      transferred to the Tribe under this section shall be

1       made available to the Tribe by the Secretary in the  
 2       same manner as amounts received from other land  
 3       held by the Secretary in trust for the Tribe.

4       (c) DATE OF TRANSFER.—No land shall be trans-  
 5       ferred to the Tribe under this section until the waivers  
 6       and releases under section 10 take effect.

7       **SEC. 7. WATER RIGHTS.**

8       (a) HOLDING IN TRUST.—

9           (1) IN GENERAL.—The consumptive use re-  
 10       served water right shall be held in trust by the  
 11       United States for the benefit of the Tribe and  
 12       allottees.

13          (2) SPRINGS OR FOUNTAINS WATER RIGHT.—  
 14       The springs or fountains water right of the Tribe  
 15       shall be held in trust by the United States for the  
 16       benefit of the Tribe.

17       (b) WATER CODE.—

18          (1) IN GENERAL.—The consumptive use re-  
 19       served water right shall be subject to section 7 of  
 20       the Act of February 8, 1887 (25 U.S.C. 381; 24  
 21       Stat. 390, chapter 119).

22          (2) ENACTMENT OF WATER CODE.—Not later  
 23       than 3 years after the date of enactment of this Act,  
 24       the Tribe shall enact a water code, subject to any  
 25       applicable provision of law, that—



1 (A) manages, regulates, and controls the  
2 consumptive use reserved water right; and

3 (B) includes, subject to approval of the  
4 Secretary—

5 (i) a process by which an allottee, or  
6 any successor in interest to an allottee,  
7 may request and be provided with an allo-  
8 cation of water for irrigation use on allot-  
9 ted land of the allottee; and

10 (ii) a due process system for the con-  
11 sideration and determination of any re-  
12 quest by an allottee, or any successor in in-  
13 terest to an allottee, for an allocation of  
14 water, including a process for appeal and  
15 adjudication of denied or disputed distribu-  
16 tions of water and for resolution of con-  
17 tested administrative decisions.

18 (3) RIGHTS OF ALLOTTEES.—Any provision of  
19 the water code and any amendments to the water  
20 code that affect the rights of the allottees shall be  
21 subject to the approval of the Secretary, and no such  
22 provision or amendment shall be valid until approved  
23 by the Secretary.

24 (4) INTERIM ADMINISTRATION.—The Secretary  
25 shall administer the consumptive use reserved water

1 right until such date as the water code described in  
2 paragraph (2) has been enacted by the Tribe and  
3 approved by the Secretary.

4 (c) SATISFACTION OF CLAIMS.—

5 (1) IN GENERAL.—The water rights and other  
6 benefits granted or confirmed by the Agreement and  
7 this Act shall be in full satisfaction of all claims for  
8 water rights and injuries to water rights of the  
9 allottees.

10 (2) SATISFACTION OF ENTITLEMENTS.—Any  
11 entitlement to water of any allottee under Federal  
12 law shall be satisfied out of the consumptive use re-  
13 served water right.

14 (d) ABANDONMENT, FORFEITURE, OR NONUSE.—  
15 The consumptive use reserved water right and the springs  
16 or fountains water right shall not be subject to loss by  
17 abandonment, forfeiture, or nonuse.

18 (e) LEASE OF WATER.—

19 (1) IN GENERAL.—The Tribe, without further  
20 approval of the Secretary, may lease water to which  
21 the Tribe is entitled under the consumptive use re-  
22 served water right through any State water bank in  
23 the same manner and subject to the same rules and  
24 requirements that govern any other lessor of water  
25 to the water bank.

1           (2) FUNDS.—Any funds accruing to the Tribe  
2           from any lease under paragraph (1) shall be the  
3           property of the Tribe, and the United States shall  
4           have no trust obligation or other obligation to mon-  
5           itor, administer, or account for any consideration re-  
6           ceived by the Tribe under any such lease.

7   **SEC. 8. TRIBAL FUNDS.**

8           (a) DEFINITION OF FUND.—In this section, the term  
9   “Fund” means—

10           (1) the Nez Perce Tribe Water and Fisheries  
11   Fund established under subsection (b)(1); and

12           (2) the Nez Perce Tribe Domestic Water Sup-  
13   ply Fund established under subsection (b)(2).

14           (b) ESTABLISHMENT.—There are established in the  
15   Treasury of the United States—

16           (1) a fund to be known as the “Nez Perce  
17   Tribe Water and Fisheries Fund”, to be used to pay  
18   or reimburse costs incurred by the Tribe in acquir-  
19   ing land and water rights, restoring or improving  
20   fish habitat, or for fish production, agricultural de-  
21   velopment, cultural preservation, water resource de-  
22   velopment, or fisheries-related projects; and

23           (2) a fund to be known as the “Nez Perce Do-  
24   mestic Water Supply Fund”, to be used to pay the  
25   costs for design and construction of water supply

1       and sewer systems for tribal communities, including  
2       a water quality testing laboratory.

3       (c) MANAGEMENT OF THE FUNDS.—The Secretary  
4 shall manage the Funds, make investments from the  
5 Funds, and make amounts available from the Funds for  
6 distribution to the Tribe consistent with the American In-  
7 dian Trust Fund Management Reform Act of 1994 (25  
8 U.S.C. 4001 et seq.), this Act, and the Agreement.

9       (d) INVESTMENT OF THE FUNDS.—The Secretary  
10 shall invest amounts in the Funds in accordance with—

11           (1) the Act of April 1, 1880 (25 U.S.C. 161;  
12       21 Stat. 70, chapter 41);

13           (2) the first section of the Act of June 24,  
14       1938 (25 U.S.C. 162a; 52 Stat. 1037, chapter 648);  
15       and

16           (3) subsection (c).

17       (e) AVAILABILITY OF AMOUNTS FROM THE  
18 FUNDS.—Amounts made available under subsection (h)  
19 shall be available for expenditure or withdrawal only after  
20 the waivers and releases under section 10 take effect.

21       (f) EXPENDITURES AND WITHDRAWAL.—

22           (1) TRIBAL MANAGEMENT PLAN.—

23               (A) IN GENERAL.—The Tribe may with-  
24       draw all or part of amounts in the Funds on  
25       approval by the Secretary of a tribal manage-

1           ment plan as described in the American Indian  
2           Trust Fund Management Reform Act of 1994  
3           (25 U.S.C. 4001 et seq.).

4           (B) REQUIREMENTS.—In addition to the  
5           requirements under the American Indian Trust  
6           Fund Management Reform Act of 1994 (25  
7           U.S.C. 4001 et seq.), the tribal management  
8           plan shall require that the Tribe spend any  
9           amounts withdrawn from the Funds in accord-  
10          ance with the purposes described in subsection  
11          (b).

12          (C) ENFORCEMENT.—The Secretary may  
13          take judicial or administrative action to enforce  
14          the provisions of any tribal management plan to  
15          ensure that any amounts withdrawn from the  
16          Funds under the plan are used in accordance  
17          with this Act and the Agreement.

18          (D) LIABILITY.—If the Tribe exercises the  
19          right to withdraw amounts from the Funds,  
20          neither the Secretary nor the Secretary of the  
21          Treasury shall retain any liability for the ex-  
22          penditure or investment of the amounts.

23          (2) EXPENDITURE PLAN.—

24                (A) IN GENERAL.—The Tribe shall submit  
25                to the Secretary for approval an expenditure

1 plan for any portion of the amounts made avail-  
2 able under subsection (h) that the Tribe does  
3 not withdraw under this subsection.

4 (B) DESCRIPTION.—The expenditure plan  
5 shall describe the manner in which, and the  
6 purposes for which, amounts of the Tribe re-  
7 maining in the Funds will be used.

8 (C) APPROVAL.—On receipt of an expendi-  
9 ture plan under subparagraph (A), the Sec-  
10 retary shall approve the plan if the Secretary  
11 determines that the plan is reasonable and con-  
12 sistent with this Act and the Agreement.

13 (D) ANNUAL REPORT.—For each Fund,  
14 the Tribe shall submit to the Secretary an an-  
15 nual report that describes all expenditures from  
16 the Fund during the year covered by the report.

17 (g) NO PER CAPITA PAYMENTS.—No part of the  
18 principal of the Funds, or of the income accruing in the  
19 Funds, shall be distributed to any member of the Tribe  
20 on a per capita basis.

21 (h) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated—

23 (1) \$60,100,000 to the Nez Perce Tribe Water  
24 and Fisheries Fund; and

1           (2) \$23,000,000 to the Nez Perce Tribe Do-  
2       mestic Water Supply Fund.

3   **SEC. 9. SALMON AND CLEARWATER RIVER BASINS HABITAT**  
4                   **FUND.**

5       (a) ESTABLISHMENT OF FUND.—

6           (1) IN GENERAL.—There is established in the  
7       Treasury of the United States a fund to be known  
8       as the “Salmon and Clearwater River Basins Habi-  
9       tat Fund” (referred to in this section as the  
10      “Fund”), to be administered by the Secretary.

11          (2) ACCOUNTS.—There is established within the  
12      Fund—

13           (A) an account to be known as the “Nez  
14      Perce Tribe Salmon and Clearwater River Ba-  
15      sins Habitat Account”, which shall be adminis-  
16      tered by the Secretary for use by the Tribe sub-  
17      ject to the same provisions for management, in-  
18      vestment, and expenditure as the funds estab-  
19      lished by section 8; and

20           (B) an account to be known as the “Idaho  
21      Salmon and Clearwater River Basins Habitat  
22      Account”, which shall be administered by the  
23      Secretary and provided to the State as provided  
24      in the Agreement and this Act.

25       (b) USE OF THE FUND.—

1           (1) IN GENERAL.—The Fund shall be used to  
2       supplement amounts made available under other law  
3       for habitat protection and restoration in the Salmon  
4       and Clearwater River basins, including projects and  
5       programs intended to protect and restore listed fish  
6       and their habitat in the Salmon and Clearwater ba-  
7       sins, as specified in the Agreement and this Act.

8           (2) NO ALLOCATION REQUIREMENT.—The use  
9       of the Fund shall not be subject to the allocation  
10      procedures under section 6(d)(1) of the Endangered  
11      Species Act of 1973 (16 U.S.C. 1535(d)(1)).

12          (3) RELEASE OF FUNDS.—The Secretary shall  
13      release funds from the Clearwater River Basins  
14      Habitat Account in accordance with section 6(d)(2)  
15      of the Endangered Species Act (16 U.S.C.  
16      1535(d)(2)).

17          (c) AVAILABILITY OF AMOUNTS IN THE FUND.—  
18      Amounts made available under subsection (d) shall be  
19      available for expenditure or withdrawal only after the  
20      waivers and releases under section 10(a) take effect.

21          (d) AUTHORIZATION OF APPROPRIATIONS.—There  
22      are authorized to be appropriated—

23              (1) \$12,666,670 to the Nez Perce Tribe Salmon  
24      and Clearwater River Basins Habitat Account; and



1           (2) \$25,333,330 to the Idaho Salmon and  
2       Clearwater River Basins Habitat Account.

3   **SEC. 10. TRIBAL WAIVER AND RELEASE OF CLAIMS.**

4       (a) WAIVER AND RELEASE OF CLAIMS IN GEN-  
5   ERAL.—

6           (1) CLAIMS TO WATER RIGHTS; CLAIMS FOR IN-  
7       JURIES TO WATER RIGHTS OR TREATY RIGHTS.—Ex-  
8       cept as otherwise provided in this Act, the United  
9       States on behalf of the Tribe and the allottees, and  
10      the Tribe, waive and release—

11           (A) all claims to water rights within the  
12      Snake River Basin (as defined in section 3(b));

13           (B) all claims for injuries to such water  
14      rights; and

15           (C) all claims for injuries to the treaty  
16      rights of the Tribe to the extent that such inju-  
17      ries result or resulted from flow modifications  
18      or reductions in the quantity of water available  
19      that accrued at any time up to and including  
20      the effective date of the settlement, and any  
21      continuation thereafter of any such claims,  
22      against the State, any agency or political sub-  
23      division of the State, or any person, entity, cor-  
24      poration, municipal corporation, or quasi-mu-  
25      nicipal corporation.

1           (2) CLAIMS BASED ON REDUCED WATER QUAL-  
2           ITY OR REDUCTIONS IN WATER QUANTITY.—The  
3           United States on behalf of the Tribe and the  
4           allottees, and the Tribe, waive and release any claim,  
5           under any treaty theory, based on reduced water  
6           quality resulting directly from flow modifications or  
7           reductions in the quantity of water available in the  
8           Snake River Basin against any party to the Agree-  
9           ment or this Act.

10          (3) NO FUTURE ASSERTION OF CLAIMS.—No  
11          water right claim that the Tribe or the allottees have  
12          asserted or may in the future assert outside the  
13          Snake River Basin shall require water to be supplied  
14          from the Snake River Basin to satisfy the claim.

15          (4) EFFECT OF WAIVERS AND RELEASES.—The  
16          waivers and releases by the United States and the  
17          Tribe under this subsection—

18                 (A) shall be permanent and enforceable;  
19                 and

20                 (B) shall survive any subsequent termi-  
21                 nation of any component of the settlement de-  
22                 scribed in the Agreement or this Act.

23          (5) EFFECTIVE DATE.—The waivers and re-  
24          leases under this subsection take effect on the date  
25          on which the Secretary causes to be published in the

1 Federal Register a statement of findings that the ac-  
 2 tions set forth in section IV.L of the Agreement—

3 (A) have been completed, including  
 4 issuance of a judgment and decree by the  
 5 SRBA court from which no further appeal may  
 6 be taken; and

7 (B) have been determined by the United  
 8 States on behalf of the Tribe and the allottees,  
 9 the Tribe, and the State of Idaho to be con-  
 10 sistent in all material aspects with the Agree-  
 11 ment.

12 (b) WAIVER AND RELEASE OF CLAIMS AGAINST THE  
 13 UNITED STATES.—

14 (1) IN GENERAL.—In consideration of perform-  
 15 ance by the United States of all actions required by  
 16 the Agreement and this Act, including the appro-  
 17 priation of all funds authorized under sections 8(h)  
 18 and 9(d)(1), the Tribe shall execute a waiver and re-  
 19 lease of the United States from—

20 (A) all claims for water rights within the  
 21 Snake River Basin, injuries to such water  
 22 rights, or breach of trust claims for failure to  
 23 protect, acquire, or develop such water rights  
 24 that accrued at any time up to and including

1 the effective date determined under paragraph  
 2 (2);

3 (B) all claims for injuries to the Tribe's  
 4 treaty fishing rights, to the extent that such in-  
 5 juries result or resulted from reductions in the  
 6 quantity of water available in the Snake River  
 7 Basin;

8 (C) all claims of breach of trust for failure  
 9 to protect Nez Perce springs or fountains treaty  
 10 rights reserved in article VIII of the Treaty of  
 11 June 9, 1863 (14 Stat. 651); and

12 (D) all claims of breach of trust arising  
 13 out of the negotiation of or resulting from the  
 14 adoption of the Agreement.

15 (2) EFFECTIVE DATE.—The waiver and release  
 16 contained in this subsection take effect on the date  
 17 on which the funds authorized under sections 8(h)  
 18 and 9(d)(1) of this Act have been appropriated as  
 19 authorized by this Act.

20 (c) RETENTION OF RIGHTS.—

21 (1) IN GENERAL.—The Tribe shall retain all  
 22 rights not specifically waived or released in the  
 23 Agreement or this Act.

24 (2) DWORSHAK PROJECT.—Nothing in the  
 25 Agreement or this Act constitutes a waiver by the

1 Tribe of any claim against the United States relat-  
 2 ing to non-water-based injuries resulting from the  
 3 construction and operation of the Dworshak Project.

4 (3) FUTURE ACQUISITION OF WATER RIGHTS.—  
 5 Nothing in the Agreement or this Act precludes the  
 6 Tribe, or the United States as trustee for the Tribe,  
 7 from purchasing or otherwise acquiring water rights  
 8 in the future to the same extent as any other entity  
 9 the State.

10 **SEC. 11. MISCELLANEOUS.**

11 (a) GENERAL DISCLAIMER.—The parties expressly  
 12 reserve all rights not specifically granted, recognized, or  
 13 relinquished by the settlement described in the Agreement  
 14 or this Act.

15 (b) DISCLAIMER REGARDING OTHER AGREEMENTS  
 16 AND PRECEDENT.—

17 (1) IN GENERAL.—Except as expressly provided  
 18 in this Act, nothing in this Act amends, supersedes,  
 19 or preempts any State law, Federal law, Tribal law,  
 20 or interstate compact that pertains to the Snake  
 21 River or its tributaries.

22 (2) NO ESTABLISHMENT OF STANDARD.—Noth-  
 23 ing in this Act—

24 (A) establishes any standard for the quan-  
 25 tification of Federal reserved water rights or

1           any other Indian water claims of any other In-  
2           dian tribes in any other judicial or administra-  
3           tive proceeding; or

4           (B) limits the rights of the parties to liti-  
5           gate any issue not resolved by the Agreement or  
6           this Act.

7           (3) NO ADMISSION AGAINST INTEREST.—Noth-  
8           ing in this Act constitutes an admission against in-  
9           terest against any party in any legal proceeding.

10          (c) TREATY RIGHTS.—Nothing in the Agreement or  
11          this Act impairs the treaty fishing, hunting, pasturing, or  
12          gathering rights of the Tribe except to the extent expressly  
13          provided in the Agreement or this Act.

14          (d) OTHER CLAIMS.—Nothing in the Agreement or  
15          this Act quantifies or otherwise affects the water rights,  
16          claims, or entitlements to water, or any other treaty right,  
17          of any Indian tribe, band, or community other than the  
18          Tribe.

19          (e) RECREATION ON DWORSHAK RESERVOIR.—

20               (1) IN GENERAL.—In implementing the provi-  
21               sions of the Agreement and this Act relating to the  
22               use of water stored in Dworshak Reservoir for flow  
23               augmentation purposes, the heads of the Federal  
24               agencies involved in the operational Memorandum of  
25               Agreement referred to in the Agreement shall imple-

1       ment a flow augmentation plan beneficial to fish and  
2       consistent with the Agreement.

3           (2) CONTENTS OF PLAN.—The flow augmenta-  
4       tion plan may include provisions beneficial to rec-  
5       reational uses of the reservoir through maintenance  
6       of the full level of the reservoir for prolonged periods  
7       during the summer months.

8       (f) JURISDICTION.—

9           (1) NO EFFECT ON SUBJECT MATTER JURIS-  
10       DICTION.—Nothing in the Agreement or this Act re-  
11       stricts, enlarges, or otherwise determines the subject  
12       matter jurisdiction of any Federal, State, or Tribal  
13       court.

14          (2) CONSENT TO JURISDICTION.—The United  
15       States consents to jurisdiction in a proper forum for  
16       purposes of enforcing the provisions of the Agree-  
17       ment.

18          (3) EFFECT OF SUBSECTION.—Nothing in this  
19       subsection confers jurisdiction on any State court  
20       to—

21               (A) enforce Federal environmental laws re-  
22       garding the duties of the United States; or

23               (B) conduct judicial review of Federal  
24       agency action.

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